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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,489	03/18/2004	Richard F. Barker JR.	41854-P002US	5706
39770	7590	06/21/2007	EXAMINER	
SANFORD E. WARREN, JR. P.O. BOX 50784 DALLAS, TX 75201			BASICHAS, ALFRED	
ART UNIT		PAPER NUMBER		
3749				
MAIL DATE		DELIVERY MODE		
06/21/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/803,489	BARKER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alfred Basichas	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 05 April 2007.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1,3-10 and 14-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,3-10 and 14-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 6-8, 11, 12, 14-15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spilger (6,124,572) in view of Koch (574,336) or Barker (1,960,365).

- a. Spilger discloses substantially all of the claimed limitations including, among other things, a food warmer oven 10 comprising: a cabinet 12 having opposing side walls 20,22, a top wall 16, a bottom wall 18, a back wall 17, and a front wall 26,34 defining a heating cavity 23, the front wall defining an opening 31 into the heating cavity; a heating source 80 disposed within the heating cavity (see at least fig. 4); a drawer frame 58 having a pair of opposing side rails 50c, each of the side rails having a front end and a terminal end, the side rails 50c being functionally connected with the side walls of the cabinet (see at least fig. 6) in a manner such that the drawer frame can be moved between an open position wherein the drawer frame extends substantially exterior of the heating cavity

through the opening (see at least fig. 1, 52b) and a closed position wherein the drawer frame is positioned substantially within the heating cavity, the front end of the side rails being positioned proximate the front wall and the terminal end being positioned proximate the back wall when the drawer frame is in the closed position (see at least fig. 1, 52a); and a food tray 74 removably held by the drawer frame (see at least fig. 1).

b. As regards the method steps of opening the door removing the food tray, placing another in its place, and closing and securing the door is well within the skill and knowledge of the skilled artisan/chef/cook. This is particularly true in the case of a large meal with several courses, where many of the dishes may be prepared at the same time, but are served at different intervals. In such a situation, it would be well within the skill and knowledge of a cook to keep those items warm while the diners enjoy the previous course. In the same light, the next course may be prepared while this is happening and upon completion the warming course would be removed and the next one placed in the warmer. All of these actions of placing in and removing food from the warmer would require opening and closing of the drawer. In addition, in order to avoid mishap caused by an open drawer, the drawer may be secured via the locking mechanism. Naturally, this step would follow the closing of the drawer.

c. Nevertheless, Spilger does not specifically recite a door moveably connected to the side rails of the drawer frame, the door moveable between an open position and a closed position; and a locking mechanism in connection

between the door and the side rails of the drawer frame for selectively maintaining the door in the closed position, and wherein when the door is in the closed position the door substantially seals the opening formed through the front wall of the cabinet.

d. Koch teaches a cabinet 1 including, among other things, a drawer 9 including a door 20 moveably connected to the side rails 14 of the drawer frame, the door moveable between an open position (see at least figs. 1 and 3) and a closed position (see at least figs. 2 and 4); and a locking mechanism 22,23,24,26 in connection between the door and the side rails of the drawer frame (see at least figs. 1 and 3-5) for selectively maintaining the door in the closed position, and wherein when the door is in the closed position the door substantially seals the opening formed through the front wall of the cabinet (see at least fig. 2). While not specifically recited by Koch, it would be clearly apparent to one having ordinary skill in the art that such an arrangement provides greater access to the interior of the drawer.

e. Barker teaches a drawer (see at least fig. 1) including, among other things, a door 9 moveably connected to the side rails 5 of the drawer frame, the door moveable between an open position (see at least fig. 1) and a closed position (see at least fig. 3); and a locking mechanism 33,34,36 in connection between the door and the side rails of the drawer frame (see at least figs. 1 and 3) for selectively maintaining the door in the closed position, and wherein when the door is in the closed position the door substantially seals the opening formed

through the front wall of the cabinet (see at least fig. 3). While not specifically recited by Barker, it would be clearly apparent to one having ordinary skill in the art that such an arrangement provides greater access to the interior of the drawer.

f. Accordingly, it would have been obvious to one having ordinary skill in the art at the time of invention to incorporate the door arrangement as taught by Koch or Barker and the method steps discussed above into the invention disclosed by Spilger, so as to provide greater access to the interior of the drawer.

3. Claims 1, 3, 6-8, 11, 12, 14-15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koch (574,336) in view of Spilger (6,124,572).

g. Koch discloses substantially all of the claimed limitations including, among other things, a stove having a cabinet (1) having opposing side walls, a top wall, a bottom wall, a back wall, and a front wall defining a heating cavity (see "stove" col. 1, lines 49-51), the front wall defining an opening into the heating cavity; a heating source disposed within the heating cavity (see "stove" col. 1, lines 49-51); a drawer frame (9) having a pair of opposing side rails (14), each of the side rails having a front end and a terminal end (Fig. 1), the side rails being functionally connected with the side walls of the cabinet in a manner such that the drawer frame can be moved between an open position ("open" in Figure 1) wherein the drawer frame extends substantially exterior of the heating cavity through the opening and a closed position (Figure 2) wherein the drawer frame is positioned substantially within the heating cavity (col. 2, lines 71-73), the front

end of the side rails being positioned proximate the front wall and the terminal end being positioned proximate the back wall when the drawer frame is in the closed position (Figures 1 and 2); a door (20) moveably connected to the side rails of the drawer frame, the door moveable between an open position and a closed position; and a locking mechanism (13, 22, 24) in connection between the door and the side rails of the drawer frame for selectively maintaining the door in the closed position. Regarding claim 15, Figure 2 shows the door closed, and the opening is substantially sealed. Nevertheless, Koch does not specifically recite a food tray.

h. Spilger teaches a food warmer including a drawer assembly 52b having a removable food tray 74 for holding prepared food 11 (see at least col. 5, lines 57-60), so as to keep prepared food 11 at serving temperature until it is served (see at least col. 4, lines 31-35). As regards the method steps of opening the door removing the food tray, placing another in its place, and closing and securing the door is well within the skill and knowledge of the skilled artisan/chef/cook. This is particularly true in the case of a large meal with several courses, where many of the dishes may be prepared at the same time, but are served at different intervals. In such a situation, it would be well within the skill and knowledge of a cook to keep those items warm while the diners enjoy the previous course. In the same light, the next course may be prepared while this is happening and upon completion the warming course would be removed and the next one placed in the warmer. All of these actions of placing in and removing food from the

warmer would require opening and closing of the drawer. In addition, in order to avoid mishap caused by an open drawer, the drawer may be secured via the locking mechanism. Naturally, this step would follow the closing of the drawer.

i. Accordingly, it would have been obvious to one having ordinary skill in the art at the time of invention to incorporate the removable food tray as taught by Spilger and the method steps discussed above into the invention disclosed by Koch, so as to keep prepared food at serving temperature until it is served.

Claims 4, 5, 9, 10, 16, 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spilger (6,124,572) in view of Koch (574,336) or Barker (1,960,365), or Koch (574,336) in view of Spilger (6,124,572), and further in view of Hempel (4,502,368). The above combinations, as applied above, teach substantially all of the claimed limitations, but do not specifically recite the locking mechanism and probe as recited in the claims above. Hempel teaches a locking mechanism including a keyhole shaped bracket 14, and a probe 34 that fits into the keyhole so as to provide for quick connect and disconnect (see at least col. 1, lines 46-48). As regards the specific positioning, it is an obvious modification based on design choice, and depends on spatial considerations. In view of the absence of criticality for this particular design, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the locking mechanism and the claimed orientation into the invention disclosed by the above combinations, so as to provide for quick connect and disconnect and for spatial considerations, respectively.

***Response to Arguments***

Applicants' arguments with regard to the rejected claims, filed April 5, 2007, have been considered, but are deemed moot in view of the new grounds for rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Basichas whose telephone number is 571 272 4871. The examiner can normally be reached on Monday through Friday during regular business hours.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center telephone number is 571 272 3700.

June 15, 2007



Alfred Basichas  
Primary Examiner